

EXHIBIT 3

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

**FILED**

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF DEL NORTE

Mail: Pamela.Hooley@doj.ca.gov

D.P. Gerth

December 29, 2005

The Honorable William H. Follett
Del Norte County Superior Court
450 "H" Street, Room 182
Crescent City, CA 95531

RE: **In re ARCADIO ACUNA (C-43165)**
Superior Court of California, County of Del Norte, Case No. HCPB05-5242

Dear Judge Follett:

Respondent thanks the Court for the opportunity to respond informally to the petition for writ of habeas filed by inmate Arcadio Acuna (C-43165). In his petition, Arcadio challenges his re-validation as a member of the Mexican Mafia prison gang on two grounds: he claims that he was denied due process and that the evidence of his gang affiliation is insufficient. Respondent respectfully submits that Acuna has been properly validated, and his petition should be denied.

The Gang Validation Process.

As this Court is well aware, the California Department of Corrections and Rehabilitation has a process for validating inmates as prison gang members and associates. (See Cal. Code Regs., tit. 15, § 3378.) A gang member is an inmate who has been accepted into membership by the gang, while a prison gang associate is defined as an inmate "who is involved periodically or regularly with members or associates of a gang." (Cal. Code Regs., tit. 15, § 3378, subd. (c)(3)-(4).) Identification as a member or an associate requires at least three independent source items indicative of actual membership in, or association with validated gang members or associates, respectively. (*Ibid.*) The source items may be based upon self-admission, tattoos and symbols, written material, photographs, staff information, information from other agencies, association with other known gang affiliates, informants, commitment offense, information contained in probation reports, receiving visits from known gang "runners" or affiliates, and communications evidencing gang affiliation or debriefing reports. (*Id.* at § 3378, subd. (c)(8), see also *Madrid v. Gomez* (1995) 889 F.Supp. 1146, 1277 [expressing approval for the regulatory criteria].)

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Inmates may be placed in administrative segregation or in the Security Housing Unit (SHU) when it is determined that their presence in the general population poses a threat to institutional safety and security. (Cal. Code Regs., tit. 15, § 3335.) A validated member or associate of a prison gang is considered a threat to institutional safety and security. (*Id.* at § 3341.5, subd. (c)(2)(A)(2).) The SHU placement of an inmate who is a validated gang member or associate, and who refuses to disassociate himself from that unlawful conspiracy, furthers the legitimate penological purpose of maintaining safety and security of the prisons and so does not violate the Eighth Amendment. (*Madrid v. Gomez, supra*, 889 F.Supp. at pp. 1274-1276, 1280.) A high-level security institution such as Pelican Bay State Prison (PBSP) has a particular need for such placement. (*Turner v. Safley* (1987) 482 U.S. 78-79, 89.)

Limited due process requirements apply to placing an inmate in administrative segregation. An informal evidentiary review is sufficient both for the decision that an inmate represents a security threat and the decision to confine an inmate to administrative segregation pending completion of an investigation into misconduct charges against him. (*Hewitt v. Helms* (1983) 459 U.S. 460, 476.) The inmate must be given notice of the charges and opportunity to present his views to the prison official charged with deciding whether to transfer him to administrative segregation. (*Ibid.*)

An inmate who is validated as a gang associate will be given an indeterminate SHU term. (Cal. Code Regs., tit. 15, § 3341.5, subd. (c)(2)(A).) The indeterminate term is not irrevocable, however. The inmate may be considered for release from SHU after he is verified as a "gang dropout" through a debriefing process. (*Id.* at § 3341.5, subd. (c)(4).) In addition, prison regulations provide for regular reviews of an inmate's validated gang status. An inmate assigned to the SHU for an indeterminate term is reviewed by a classification committee every 180 days for consideration for release to the general population. (*Id.* at § 3341.5, subd. (c)(2)(A)(1).) In addition, the inmate's status is reviewed annually by the unit classification committee. (*Id.* at § 3376, subd. (d)(2).)

If during the course of its reviews, the committee determines that there are any questions about the inmate's validated gang status, the committee can refer the inmate to the Institution Gang Investigation Unit (IGI), the Law Enforcement Investigation Unit (LEIU), the Special Services Unit (SSU), which is the field office for the LEIU, or the Departmental Review Board (DRB) for a review. (See, e.g., Cal. Code Regs., tit. 15, § 3341.5, subd. (c)(5); § 3376, subd. (d)(2)(D).) Finally, prison regulations provide that an inmate housed in the SHU because of his gang status may be reviewed and considered for "inactive status" when he has not been identified as having been involved in any gang activity for six years. (*Id.* at § 3378, subd. (e).)

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Acuna's Validation.

As noted in his petition, Acuna had been validated as an associate of the Mexican Mafia (also known as the EME) in the past, but he was later found to be "inactive" and released from the SHU. (See, generally, Pet.; see also, e.g., Ex. 1, CDC 128-G, dated 05/31/00 [DRB decision releasing Acuna from the SHU based on his inactive gang status].) However, in December 2003, while Acuna was housed at California State Prison, Los Angeles County, an investigation of Acuna's gang status was initiated by the local institutional gang investigator after the IGI received new confidential information indicating that Acuna was currently involved in EME activity. (Ex. 2, General Chrono, dated 12/17/03; Ex. 3, General Chrono, dated 12/18/03.)

As part of this investigation, Acuna was photographed, and he was informed that the IGI would be submitting a validation package for his re-validation. (Ex. 2-3.) This evidence contradicts Acuna's claim that he was denied notice and an opportunity to challenge his validation before the validation package was submitted to the LEIU/SSU. Instead, the evidence demonstrates that Acuna was given notice that two confidential memoranda were being used to document his continuing participation in gang activity. (Ex. 3.) In addition, contrary to the allegations in his petition, Acuna was, in fact, given the opportunity by the IGI to participate and discuss any issues concerning his validation. (*Ibid.*) Indeed, the IGI documented this discussion, including Acuna's specific claims denying any current gang affiliation. (*Ibid.*)

A validation package was submitted by the IGI to the LEIU/SSU in January 2004, and on January 20, 2004, Acuna was re-validated as a member of the Mexican Mafia prison gang, based on three confidential source items. (Ex. 4, CDC 128-B2, dated 01/20/04; see also Ex. X Confidential memorandum, dated 12/12/03; Ex. Y, confidential memorandum dated 09/23/00, 2003; and Ex. Z, confidential CDC 128B, dated 09/21/00, *all of which are filed under seal, for in camera review pursuant to the Court's order of October 31, 2005.*) Respondent submits that these three documents meet the validation requirements of Title 15, section 3378, of the California Code of Regulations, and, therefore, Acuna was properly validated. Specifically, these documents show that Acuna continued to participate in EME-related activities and to communicate with other EME members and associates while he was housed at California State Prison, Los Angeles. (See Ex. X-Y.)

After the validation package had been submitted and Acuna had been re-validated, but before Acuna had been transferred to the SHU, he was transferred to Calipatria State Prison. (See Pet., p. 7; see also Ex. 5, Movement History, entry dated 03/01/04.) Acuna was then placed in administrative segregation based on his status as a validated EME gang member, pending review of his housing and program needs by the institution classification committee. (Ex. 5, entry dated 03/05/04; Ex. 6, CDC 114D, dated 03/05/04.) Acuna had notice and an opportunity to challenge this housing decision, and attended the hearing, during which the committee decided

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he should be retained in administrative segregation pending his transfer to the SHU. (Ex. 6; Ex. 7, CDC 128G, dated 03/11/04.) Acuna expressed no disagreement with the decision, nor did he assert any challenge to his validated gang status; in fact, he asked no questions and made no comments during the hearing. (*Ibid.*)

Before he had been transferred to the SHU, Acuna submitted an appeal, which he dated March 11, 2004. (See Pet., Ex. C; see also Ex. 8, Inmate Appeal, Local Log No. CAL 04-545, p. 3.) In this appeal, Acuna requested that his gang validation be rescinded for various reasons, including because he had not been provided with Confidential Information Disclosure Forms, also known as CDC 1030s, for the confidential documents that had been relied upon to validate him. (*Ibid.*) These forms identify the reason or reasons why the confidential information is reliable and disclose as much information as possible without jeopardizing the safety and security of the institution. (See Cal. Code Regs., tit. 15, § 3321.) After filing this appeal, Acuna was given CDC 1030s for the three documents relied upon to validate him on 04/20/04. (Ex. 9, CDC 1030s, referencing the 12/23/03 and 09/23/03 memoranda and the 09/21/00 CDC 128B.) Although Acuna apparently was not given the CDC 1030s before the validation package was sent to LEIU/SSU, he did receive them before his actual transfer to the SHU. More importantly, he was given the opportunity to discuss his potential validation with the IGI in December 2003, before the validation package was submitted to LEIU/SSU, and he took that opportunity to express his views, which were then passed on to the LEIU/SSU. (See Ex. 3.)

Additionally, Acuna's administrative segregation placement was reviewed periodically until his transfer to the PBSP SHU in November 2004. (See Ex. 5, entry dated 11/17/04; Ex. 10, CDC 128Gs, dated 04/22/04, 07/15/04, and 10/07/04.) Acuna attended each of these hearings, and he never disagreed with the committee's decisions or voiced any concern with respect to his validated gang status; indeed, he asked no questions and made no comments during any of these hearings. (*Ibid.*)

In the meantime, however, he apparently submitted another appeal, this time challenging the sufficiency of the evidence described in the CDC Form 1030s. (See Pet., Ex. C; see also Ex. 8, pp. 6-15.) That appeal was denied at the second level and again at the Director's Level because there was sufficient evidence to warrant Acuna's re-validation. (See Pet., Ex. C, Supplemental Page; see also Ex. 8, p. 1.^{1/})

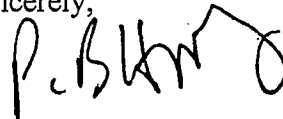
1. Acuna complains because the Director's Level Appeal Decision refers to him as both an associate and as a member. This confusion likely arises from the fact that Acuna had previously been validated as an associate and was subsequently validated as a member. The dual reference in the appeal response, however, does not undermine the validation decision itself.

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Conclusion.

Contrary to the allegations in his petition, Acuna was given notice and an opportunity to challenge his gang validation. More importantly, the evidence of Acuna's continuing involvement with the Mexican Mafia is sufficient to justify his re-validation. Accordingly, his petition should be denied and this matter dismissed.

Sincerely,



PAMELA B. HOOLEY
Deputy Attorney General

For BILL LOCKYER
Attorney General

PBH:sf

EXHIBIT "1"

Location: PBSP / SHU CS: 81 Enemy: YES MEPD: 5-17-12
Gang: INACTIVE EME Prior DRB: NO Restitution: NOT APPLICABLE

REASON FOR REFERRAL: This case was referred to DRB pursuant to California Code of Regulations (CCR), Title 15, Section 3378 (d)(e) whereas "...an inmate housed in a Security Housing Unit (SHU) as a gang member or associate may be considered for review of inactive status by DRB when the inmate has not been identified as having been involved in gang activity for a minimum of six years. The Assistant Director, LEIU, or designee shall approve verification of an inmate's inactive status...". This case has been validated by LEIU staff as meeting the inactive criteria, and requires a DRB review to evaluate the inmate's inactive status and alternative placement options, if approved by DRB action. The following case factors are noted:

1. On 10-5-98, Inmate Acuna was validated as an associate of the EME per the CDC-128-B-2 process (copy attached). The validation documents used to validate Inmate Acuna have been included with the DRB referral documents. A review of these documents indicates that Inmate Acuna did not have a significant EME role.
2. On 1-31-00, the Inactive Gang Task Force completed an investigation relative to Inmate Acuna's gang involvement (copy of CDC-128-B attached). This investigation determined that Inmate Acuna qualified for a potential "inactive validation" via LEIU. This document also notes the last source document related to gang activity is dated 8-31-90.
3. A CDC-128-B-2- dated 2-07-00, was prepared by LEIU staff and documents that Acuna has been determined to be an "inactive" EME associate and therefore, meets the criteria for a DRB referral / review.

The inmate has requested placement at PBSP-IV "general population". The institution has recommended that DRB approve a transfer to either CCI-IV or SVSP-IV general population.

CIRCUMSTANCES: Inmate Acuna was received into CDC on 3-11-87 as a PV/WNT from Santa Clara County for Kidnap for Robbery (3 counts). He was sentenced to three Life terms plus eight years. He has an extensive criminal record dating to 1978. He has not appeared to be a management concern during this current CDC term. His last disciplinary action was in 1995 for Talking in the Library. Inmate Acuna was also found to be the victim of a stabbing assault in 1990.

| | | |
|-------------------------------------|-----------------------------------|-----------------------|
| Date: 5-31-00 | Classification: DRB ACTION | Inst.: PBSP |
| NO. C-43165 | NAME: ACUNA | CDC-128-G (Rev. 2/96) |
| Custody: MAX AS | Assignment: | |
| Comments: DEPARTMENTAL REVIEW BOARD | | |

INSTITUTION STAFF RECOMMENDATION: Approve transfer to either PBSP-IV or CCI-IV general population.

CLASSIFICATION SERVICES RECOMMENDATION: CSU notes all case factors and the recent "inactive" gang validation. Additionally, the inmate has maintained a satisfactory program and has not been a management concern. The LEIU Investigation results warrant this review and substantiate a potential placement of Inmate Acuna in a general population facility for a twelve-month period of observation. Therefore, CSU recommends: 1. Approve a transfer to SVSP-IV for a twelve-month period of observation. 2. The PBSP C&PR to facilitate this transfer within 14 days after receiving this action. 3. The PBSP C&PR to complete the CDC-840 with applicable transfer information / administrative determinates prior to the inmate's transfer. 4. The inmate to be advised that any signs of gang activity (one reliable source) will result in a removal from the general population. 5. After a twelve-month period of observation has been completed, the inmate is to be reviewed by a Classification Committee to ensure that his placement is consistent with his classification score and case factors.

DRB ACTION OF 5-31-00: DRB reviewed Inmate Acuna's case, in person, on this date at PBSP. Acuna was permitted to discuss his case with the DRB members. Inmate Acuna acknowledged the reason for his DRB appearance and understood the "inactive gang" process. DRB noted all case factors relative to meeting the "inactive gang" criteria, including the inmate's positive behavior and lack of any documented gang activity. DRB discussed all program expectations with Inmate Acuna, who claimed to understand all functions of this DRB review. Acuna stated "I just want to get a date..." DRB noted the following factors, staff comments and discussion points:

1. The Tier Officer assigned to Inmate Acuna's "POD" was asked by DRB members about his behavior, compliance with directions, attitude toward staff and ability to program with members of rival gangs / disruptive groups in a

Custody: MAX AS

Assignment:

Comments: DEPARTMENTAL REVIEW BOARD

- positive manner. The Officer expressed positive comments about Acuna and indicated he was not a problem inmate. The Officer felt Acuna should be able to program with inmates of opposing factions.
2. Inmate Acuna indicated that if placed in a general population setting / integrated yard, he would be able to program with inmates from rival groups.
 3. Acuna also understood that DRB may approve Double-Celling upon his reception at a general population institution, and he claimed he would have no problems housing with another inmate.
 4. Acuna claimed he would not involve himself in future gang activity and acknowledged the consequences, should he become involved in any type of future gang activity / association.

After a review of all case factor and noting the above comments, DRB elected to grant the inmate's release from Indeterminate SHU with placement at CCI-IV for 180 design housing. The following DRB actions were also approved: 1. Retain CLO-A custody for a period of twelve months, at which time, the institution is to evaluate the inmate's behavior and relevant case factors to determine his eligibility for a less restrictive custody. 2. The CCI-IGI is to closely monitor the inmate's behavior and activity while housed at CCI. 3. Double-Cell housing is approved upon his reception at CCI. 4. The PBSP C&PR to facilitate this transfer with CSU staff within 14 days after receiving this action. The C&PR is to also complete the CDC-840 with applicable information / administrative determinates to include "INA" prior to the inmate's transfer. 5. Although DRB will not maintain future transfer control over this case, it is requested by DRB that if Inmate Acuna is identified as being involved in any future gang activity, which would again subject him to an Indeterminate SHU placement, that the DRB coordinator be advised in order to monitor the success of this program. 6. Case to be reviewed in twelve months by a Classification Committee to ensure that the inmate's placement is consistent with his Classification Score / case factors.

Date: 5-31-00

Classification: DRB ACTION

RETAIN DRB TRANSFER CONTROL: YES ☐ NO ☒

Inst.: PBSP

NO. C-43165

NAME: ACUNA

CDC-128-G (Rev. 2/96)

Custody: MAX AS

Assignment:

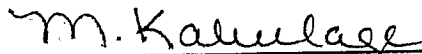
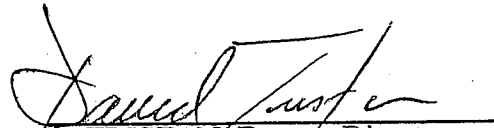
Comments: DEPARTMENTAL REVIEW BOARD

MEMBERS:D. TRISTAN, Deputy Director
Institutions Division

K.W. PRUNTY, Regional Administrator-South

M. KALVELAGE, Chief (A)
Institution Operations, Institutions DivisionRECORDER:

D. LANKFORD, Classification Staff Representative, Classification Services Unit

ATTENDEES:B. PARRY, Assistant Director, Law Enforcement and Investigation Unit
J. DIGGS, Facility Captain, Classification Services UnitM. KALVELAGE, Chief (A)
Institution Operations, Institutions Division
D. TRISTAN, Deputy Director
Institutions Division

Date: 5-31-00

Classification: DRB ACTION

Inst.: PBSP

EXHIBIT "2"

State of California

Department of Corrections
CDC 128-B (8-87)

NAME AND NUMBER

ACUNA, ARCADIO, SERRAN C43165 AKA "CADOI"

On Friday December 12, 2003, an investigation was initiated on Inmate Acuna, C43165, per the California Code of Regulations, Title 15, Section 3378 (d) regarding his (Active/In Active) gang status.

Acuna was validated as an associate of the Mexican Mafia prison gang on 11-29-90.

The last source document showing gang activity is dated 08-31-90.

The California State Prison Los Angeles County (CSP-LAC) Institutional Gang Investigator's Unit has received new Confidential Information dated September 23, 2003 and December 12, 2003, implicating and showing Acuna as being currently involved in associating and participating in gang activity for the Mexican Mafia (EME) at CSP-LAC.

Based on the information it is recommended Acuna, C43165, be placed on the Active Status.

Acuna was photographed, and an active package is being submitted to the Law Enforcement & Intelligence Unit, (LEIU).


J. GARCILAZOInstitutional Gang Investigator
CSP-Los Angeles County

Orig: C-FILE

Cc: Writer

Date: December 17, 2003,

GANG CHRONO

GENERAL CHRONO

EXHIBIT "3"

State of California


Department of Corrections
CDC 128-B (8-87)

NAME AND NUMBER

ACUNA, ARCADIO, SERRANO, C43165

INTERVIEW:

On Thursday December 18, 2003, the Institutional Gang Investigator (IGI) interviewed Inmate Acuna C43165, Validated Mexican Mafia Inactive per California Code Of Regulations Title 15, Section 3378 (f)(1). Acuna was informed that IGI would be submitting a validation package for revalidation with Prison Gang Mexican Mafia. Inmate Acuna was also informed that two confidential Memorandums were being used as new information implicating him as continuing to participate with gang activity. Inmate Acuna was given the opportunity to participate and discuss any issues concerning the validation. Acuna stated he has been clean for three years, you can review my Central File, you can talk to all supervisor's whom I have work for about my character. I don't associate with no prison gang members, associates, or anybody. I do my own program. I can't help if they (Young Southerner's) inmates look up to me. If anything I try to encourage these youngster to stay out of prison to go home and stay out of trouble. Inmate Acuna denied any current involvement with gang activity.



J. GARCILAZO
Institutional Gang Investigator
CSP-Los Angeles County
Inmate

Orig: C-File
Cc: Writer

Date: December 18, 2003

GENERAL CHRONO

EXHIBIT "4"

STATE OF CALIFORNIA
CORRECTIONS
CDC 128-B-2 (5/95)

DEPARTMENT OF

INMATE'S NAME: Acuna, Arcadio

CDC NUMBER: C43165

On February 4, 2000, a gang validation package regarding subject was received from Institution Gang Investigator Crandall at PBSP.

SUBSEQUENT INFORMATION WAS RECEIVED BY SSU ON January 12, 2004, FROM GANG INVESTIGATOR Lt. Garcilazo AT CSP-LOS. (UPDATED ITEMS LISTED IN ITALICS).

The following items meet the validation requirements:

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (3)
Conf Memo dated 12-12-03, Conf Memo dated 9-23-03 and Conf 128B dated 9-21-00.

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (3)

The following items do not meet the validation requirements and were/shall not be used as a basis for validation:

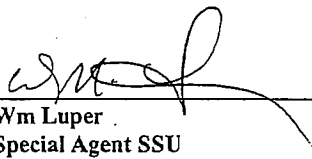
TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (0)

ACTION OF REVIEWER

Pursuant to the validation requirements established in 15 CCR Section 3378, Arcadio Acuna is:

☒ VALIDATED ☐ REJECTED

as a member of the Mexican Mafia prison gang.


Wm Luper
Special Agent SSU

DATE:

1-20-04

GANG VALIDATION/REJECTION REVIEW
GENERAL CHRONO
LEIU/SSU

DISTRIBUTION:

Original - Central File
Copy - Classification & Parole Representative/Parole Administrator I
Copy - Institutional Gang Investigator/Region Gang Coordinator
Copy - Law Enforcement Liaison Unit
Copy - Inmate/Parolee

EXHIBIT "5"

Page: 1 Document Name: un lled

JMHQ C43165

ACUNA, ARCADIO, SERRANO

PAGE 01

*** MOVEMENT HISTORY - MOST RECENT MOVEMENT FIRST ***

RPT DATE: 11/17/2004

| | | | | |
|------------|-------------------------------|--------------------------|------------------|--------------|
| 11/17/2004 | TRANSFERRED | TO PSP SHU | FROM DVIRC | |
| 11/16/2004 | TRANSFERRED | TO DVIRC | FROM RCC | |
| | | ENROUTE TO PSP | | |
| 11/15/2004 | TRANSFERRED | TO RCC | FROM CAL | |
| | | ENROUTE TO PSP | | |
| 03/05/2004 | CHANGED UNIT | NEW UNIT: ADSEG | OLD UNIT: MAIN | |
| 03/01/2004 | TRANSFERRED | TO CAL | FROM LAC | |
| 11/04/2003 | TEMP RELEASE | TO MED FROM LAC | CUSTODY: CDC/BAK | RET SAME DAY |
| | | DR. LUU, MD./BAKERSFIELD | | |
| 08/14/2003 | CHANGED UNIT | NEW UNIT: IV | OLD UNIT: ADSEG | |
| 08/12/2003 | CHANGED UNIT | NEW UNIT: ADSEG | OLD UNIT: IV | |
| 05/28/2002 | TRANSFERRED | TO LAC IV | FROM CCI4A | |
| | P/N PRESS ENTER FOR NEXT PAGE | | | |

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ACUNA, ARCADIO, SERRANO

PAGE 02

07/20/2000 TRANSFERRED TO CCI4A FROM COR

07/19/2000 STATUS CHANGED TO ENRCHG FROM ENROUTE NEW FINAL DEST: CCI4A

07/19/2000 TRANSFERRED TO COR SHU FROM PSP
ENROUTE TO CCI

08/07/1995 CHANGED UNIT NEW UNIT: SHU OLD UNIT: INF

08/05/1995 CHANGED UNIT NEW UNIT: INF OLD UNIT: SHU

07/26/1995 CHANGED UNIT NEW UNIT: SHU OLD UNIT: INF

07/25/1995 TEMP RELEASE TO HOSP FROM PSP CUSTODY: CDC/DN RET SAME DAY
SUTTER COAST HOSP/CRESCENT CITY

07/24/1995 CHANGED UNIT NEW UNIT: INF OLD UNIT: SHU

01/19/1991 TRANSFERRED TO PSP SHU FROM FOL-A

11/05/1990 TRANSFERRED TO FOL-A ADSEG FROM FOL-C
P/N PRESS ENTER FOR NEXT PAGE

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ACUNA, ARCADIO, SERRANO

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| | | | |
|------------|--------------|-----------------------|------------------------|
| 10/30/1990 | TRANSFERRED | TO FOL-C | FROM FOL-A |
| 10/26/1990 | TRANSFERRED | TO FOL-A | FROM PSP |
| 07/31/1990 | CHANGED UNIT | NEW UNIT: MAIN | OLD UNIT: INF |
| 07/30/1990 | CHANGED UNIT | NEW UNIT: INF | OLD UNIT: MAIN |
| 12/04/1989 | TRANSFERRED | TO PSP | FROM FOL-B |
| 07/19/1989 | TRANSFERRED | TO FOL-B | FROM FOL-A |
| 05/25/1989 | TRANSFERRED | TO FOL-A ADSEG | FROM FOL-B |
| 03/22/1988 | TRANSFERRED | TO FOL-B | FROM FOL-A |
| 03/21/1988 | TRANSFERRED | TO FOL-A INFIRMARY | FROM FOL |
| 03/16/1988 | TRANSFERRED | TO FOL MED & RET | FROM FOL-B TEMPORARILY |

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Page: 1 Document Name: unclassified

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ACUNA, ARCADIO, SERRANO

PAGE 04

05/27/1987 TRANSFERRED TO FOL-B FROM FOL

04/24/1987 TRANSFERRED TO FOL FROM NRC
LATE ARRIVAL

03/11/1987 RETURNED TO NRC
RET FROM PAROLE RET STATUS PWNT
F/PROCESS

12/05/1983 PAROLED TO REG4 ONT1 FROM FOL CUSTODY: SO/RIV
TENT DCH DATE: 12/05/1986 CO: SB

07/07/1983 CHANGED UNIT NEW UNIT: SHU OLD UNIT: MAIN

05/11/1983 STATUS CHANGED TO ENRREM FROM ENROUTE

05/11/1983 TRANSFERRED TO FOL FROM RCC
ENROUTE TO CRC

05/10/1983 STATUS CHANGED TO TEMPREM FROM TEMP

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ACUNA, ARCADIO, SERRANO

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| | | | |
|------------|--------------|--------------------------------|----------------------|
| 04/07/1983 | CHANGED UNIT | NEW UNIT: PALM | OLD UNIT: MAIN |
| 04/07/1983 | RETURNED | TO RCC RET FROM OTC TFT | ENR TO CRC |
| 03/10/1983 | TEMP RELEASE | TO OTC FROM RCC ARRAIGNMENT | CUSTODY: SO/RIV |
| 03/03/1983 | CHANGED UNIT | NEW UNIT: PALM | OLD UNIT: MAIN |
| 03/03/1983 | RETURNED | TO RCC RET FROM OTC TFT | ENR TO CRC |
| 02/15/1983 | TEMP RELEASE | TO OTC FROM RCC ARRAIGNMENT | CUSTODY: SO/RIV |
| 02/07/1983 | TRANSFERRED | TO RCC PALM H/C | FROM CRC TEMPORARILY |

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ACUNA, ARCADIO, SERRANO

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| | | | | | |
|------------|--------------|-------------------|----------|-----------------|--------------|
| 02/07/1983 | TEMP RELEASE | TO OTC PRELIM | FROM CRC | CUSTODY: SO/RIV | RET SAME DAY |
| 02/07/1983 | TRANSFERRED | TO CRC | | FROM RCC | |
| 01/26/1983 | CHANGED UNIT | NEW UNIT: PALM | | OLD UNIT: MAIN | |
| 01/26/1983 | TRANSFERRED | TO RCC H/C | | FROM CRC | TEMPORARILY |
| 01/26/1983 | TEMP RELEASE | TO OTC ARRAIGN | FROM CRC | CUSTODY: SO/RIV | RET SAME DAY |
| 01/26/1983 | TRANSFERRED | TO CRC | | FROM RCC | |
| 01/17/1983 | CHANGED UNIT | NEW UNIT: PALM | | OLD UNIT: MAIN | |
| 11/12/1982 | TRANSFERRED | TO RCC H/C | | FROM CRC | TEMPORARILY |

P/N PRESS ENTER FOR NEXT PAGE

MHQ C43165

ACUNA, ARCADIO, SERRANO

PAGE 07

06/12/1982 RETURNED TO CRC
RET FROM HOSP

06/11/1982 TEMP RELEASE TO HOSP FROM CRC CUSTODY: RGH

03/12/1982 TRANSFERRED TO CRC FROM RCC

02/25/1982 ADMITTED TO RCC FROM SC/SBD AS A DSL
CII NA
B95994

P/01 NO ADDITIONAL PAGE FOLLOWS

EXHIBIT "6"

STATE OF CALIFORNIA
ADMINISTRATIVE SEGREGATION UNIT PLACEMENT NOTICE
CDC 114-D (Rev 10/98)

DEPARTMENT OF CORRECTIONS

DISTRIBUTION:
WHITE - CENTRAL FILE
BLUE - INMATE (2ND COPY)
GREEN - ASU

CANARY - WARDEN
PINK - HEALTH CARE MGR
GOLDENROD - INMATE (1ST COPY)

INMATE'S NAME

ACUNA, Arcadio

CDC NUMBER

C-43165

REASON(S) FOR PLACEMENT (PART A)

☒ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS

☐ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY

☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT

On Friday, March 05, 2004, the Institutional Gang Investigator at Calipatria State Prison received a facsimile copy of a CDC 128B-2, Gang Validation Chrono, from the Special Services Unit (SSU), identifying you, Inmate Arcadio Acuna, C-43165, B5-209L, as a validated member of the Mexican Mafia prison gang. Due to your current gang status as an active member of the Mexican Mafia, your continued presence on a general population facility (B Facility) has been deemed a threat to the safety and security of the institution. You are being re-housed in Administrative Segregation pending review by the Institutional Classification Committee for program and housing needs. Due to your Ad-Seg placement, your custody level, privilege group, credit earning and visiting status are subject to change. Inmate ACUNA is not a participant in the Mental Health Services Delivery System (MSDS) and Disability Placement Program (DDP).

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☐ IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE: / /

| | | | |
|-----------------------------------|---|--|---------------------|
| DATE OF ASU PLACEMENT 03-05-04 | SEGREGATION AUTHORITY'S PRINTED NAME R. ANTI | SIGNATURE <i>[Signature]</i> | TITLE LIEUTENANT |
| DATE NOTICE SERVED 3.5.04 | TIME SERVED 1525 | PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE J. Gutierrez | STAFF'S TITLE 90 |

☐ INMATE REFUSED TO SIGN ☒ INMATE SIGNATURE *[Signature]* CDC NUMBER C-43165

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)

INVESTIGATIVE EMPLOYEE (IE)

| | | | |
|-----------------------------|-------|--------------------------------------|-------|
| STAFF ASSISTANT NAME N/A | TITLE | INVESTIGATIVE EMPLOYEE'S NAME N/A | TITLE |
|-----------------------------|-------|--------------------------------------|-------|

IS THIS INMATE:

| | | | |
|---|---|--|---|
| LITERATE? ASD | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | EVIDENCE COLLECTION BY IE UNNECESSARY | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
| FLUENT IN ENGLISH? | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | DECLINED ANY INVESTIGATIVE EMPLOYEE | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| ABLE TO COMPREHEND ISSUES? | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | ASU PLACEMENT IS FOR DISCIPLINARY REASONS | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS? | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| DECLINING FIRST STAFF ASSISTANT ASSIGNED? | <input type="checkbox"/> YES | | |

Any "NO" requires SA assignment

Any "NO" may require IE assignment

☒ NOT ASSIGNED☒ NOT ASSIGNED

INMATE WAIVERS

☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☒ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME

☒ NO WITNESSES REQUESTED BY INMATE ☐ INMATE SIGNATURE *[Signature]* DATE 3/5/04

WITNESSES REQUESTED FOR HEARING

| | | | |
|----------------------|------------------|----------------------|------------------|
| WITNESS' NAME N/A | TITLE/CDC NUMBER | WITNESS' NAME N/A | TITLE/CDC NUMBER |
| WITNESS' NAME | TITLE/CDC NUMBER | WITNESS' NAME | TITLE/CDC NUMBER |

DECISION: ☐ RELEASE TO UNIT/FACILITY ☒ RETAIN PENDING ICC REVIEW ☐ DOUBLE CELL ☒ SINGLE CELL PENDING ICC

REASON FOR DECISION: Ret AS pend. ICC review.

Single cell pend ICC review.

Endangers Inst. Security.

| | | | | | |
|--|----------------|--|--------------|---|----------------|
| ADMINISTRATIVE REVIEWER'S PRINTED NAME J. Buiteman | TITLE Capt. | DATE OF REVIEW 3-8-04 | TIME 1410 | ADMINISTRATIVE REVIEWER'S SIGNATURE <i>[Signature]</i> | DATE OF REVIEW |
| CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary) | | CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary) | | | |

EXHIBIT "7"

ACTION: INITIAL/MAINLINE REVIEW: RETAIN AD SEG PENDING TX TO PBSP-SHU INDETERMINATE VIA CCI-SHU. REFER TO CSR RX TX PBSP-SHU VIA CCI-SHU. ESTABLISH MAX CUSTODY AND WG/PG D1/D EFFECTIVE 03/05/2004. ASSIGN YARD GROUP NO. 7, CONTROLLED COMPATIBLE (WHITES/SO. HISPANICS/OTHERS). PLACE ON NON-CONTACT VISITING STATUS EFFECTIVE 03/05/2004. NO MHSDS, MDO, DPP OR DDP CONCERNS NOTED. DOUBLE CELL HOUSING APPROVED. RESCHEDULE ICC 06/03/2004.

Inmate Acuna was screened in person in ICC today for Initial/Mainline Review. Inmate was placed in Ad/Seg on 03/05/2004 for being validated as a Mexican Mafia Prison Gang member per CDC 128B2 dated 01/20/2004. The 114-D Interview was conducted on 03/08/2004 by J. Builteman, FC. The 114-D Hearing was conducted on 03/11/2004 by ICC. Staff Assistant was not assigned. Investigative Employee was not assigned. The issues are not complex nor is the Inmate illiterate. Review of the 114-D within time limitations has been met and no witnesses were requested. Committee finds that segregated housing is appropriate and elects to retain Inmate in Ad/Seg pending transfer to PBSP-SHU Indeterminate via CCI-SHU. No enemies in Ad Seg are noted. Committee refers the case to the CSR recommending transfer to PBSP-SHU via CCI-SHU. Inmate is assigned to Yard Group No. 7, Controlled Compatible (Whites/So. Hispanics/Others). A review of the central file does not indicate a pervasive pattern of in-cell assaults or predatory behavior, therefore, inmate is approved for double cell housing. CDC 1882 is located in the Central File. Confidential information was not considered. Inmate assigned to Ad/Seg earning status WG/PG D1/D effective 03/05/2004, custody changed to MAX. Inmate was placed on non-contact visiting status effective 03/05/2004. Committee notes inmate was received in CDC on 03/11/1987 with a term of 3 Life Terms plus 8 Years and will be eligible for custody review on 08/05/2005. Committee notes this hearing also serves as inmate's Mainline Initial Review. Case factors are as follows: Inmate Acuna is a 50 year old, Hispanic, 4th term, committed from Santa Clara County for the offenses of Kidnapping and Robbery. He was received at CAL on 03/01/2004 from LAC. His GPL is 12.5. Confidential file is noted. Inmate is medically classified as Full Duty. TB Alert Code is 22 per 128-C dated 04/28/2003. Inmate does not meet criteria for inclusion in the MHSDS. CDC 812 indicates enemy situation and gang/disruptive group affiliation. Disciplinary history includes Possession of Alcohol, Unauthorized Talking, Resisting Staff, Assault on Inmate, Failure to Report, Possession of Controlled Substance and Force and Violence. There is no history of Arson, Kidnapping or Sex related offenses noted. History of Escape is noted for a 1978 Escape from CA Rehabilitation Center. There are no Holds or Detainers noted. Inmate is not a foreign born national. Inmate is not eligible for MSF, CCRC, MCCF, CCF, Camp or Restitution Center due to Life sentence. Inmate does not meet MDO criteria. CDC 840, 812, 127 and Minimum Screening forms have been updated. Inmate's BPT Initial Parole Consideration Hearing is scheduled for 07/2011 and his next Annual Review is scheduled for 10/2004. Inmate does not meet the criteria for inclusion in the MHSDS, MDO, or DPP and Mental Health Staff present during committee is in agreement with this status. Inmate was advised he would be seen by ICC on 06/03/2004. Inmate Acuna was informed of committee's actions and was advised of his right to appeal. Inmate had no questions or comments to address to committee. There are no other case factors or concerns noted. (acf)

T. Ochoa, CDW(A)

CHAIRPERSON

K. Hughes, Asst. C&PR

RECORDER

Committee Members: G. Janda, AW; S. Leapheart, FC; G. Chavarria, CCL; D. Middleton, Ph.D.

cc: Counselor, Inmate

Date: 03/11/2004

CLASSIFICATION: ICC AD/SEG

INST: CAL-IV

EXHIBIT "8"

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS AND REHABILITATION
INMATE APPEALS BRANCH
P. O. BOX 942883
SACRAMENTO, CA 94283-0001

DIRECTOR'S LEVEL APPEAL DECISION

Date: **SEP 23 2005**

In re: Acuna, C-43165
Pelican Bay State Prison
P.O. Box 7000
Crescent City, CA 95531-7000

IAB Case No.: 0500285 Local Log No.: CAL 04-545

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner S. Ortiz, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

I APPELLANT'S ARGUMENT: It is the appellant's position that he was placed in the California State Prison, Los Angeles County (LAC) Administrative Segregation Unit based on allegations that he was a validated gang member of a prison gang. The appellant contends that this was action was a direct violation of his due process rights. The appellant requests that his validation as a gang member be rescinded and that he be returned to the general inmate population.

II SECOND LEVEL'S DECISION: The reviewer found that on January 12, 2004, a gang validation package was submitted to the Law Enforcement Investigation Unit by the LAC Institution Gang Investigator, to re-validate the appellant as an associate of the Mexican Mafia (EME) prison gang. While at LAC the appellant was in the general inmate population (GP) due to being released from Pelican Bay State Prison (PBSP) Security Housing Unit as an in-active "EME" associate. On January 20, 2004, the appellant was re-validated as an associate of the "EME" prison gang pursuant to the validation requirements established by the California Code of Regulations, Title 15, (CCR). The appellant's case will be considered for review in six years for in-active status, if he remains gang activity free for that time frame. The reviewer learned the one CDC Form 1030 Confidential Information Disclosure notice was provided to the appellant and the information was deemed reliable in accordance with the CCR 3321. Therefore, the Second Level of Review denied the appeal.

III DIRECTOR'S LEVEL DECISION: Appeal is denied.

A. FINDINGS: There was sufficient evidence to warrant the appellant's re-validation as an "EME" gang associate. The appellant provided no evidence to the committee members contesting his validation. The appellant was provided with copies of the materials used to re-validate him. Additionally, the LEIU provided a CDC Form 128-B2, Validation Chrono, dated January 20, 2004, which identified three items which supported the validation of the appellant as a member of the EME. The appellant has not provided sufficient evidence to overturn or rescind his validation as an associate of the "EME." The appeal was denied at the Director's Level of Review.

B. BASIS FOR THE DECISION:

CCR: 3001, 3335, 3338, 3339, 3370, 3375, 3378

C. ORDER: No changes or modifications are required by the institution.

ACUNA, C-43165
CASE NO. 0500285
PAGE 2

This decision exhausts the administrative remedy available to the appellant within CDCR.

T. Surges
4

N. GRANNIS, Chief
Inmate Appeals Branch

cc: Warden, PBSP
Appeals Coordinator, PBSP
Appeals Coordinator, CAL

MAR 15 2004
INMATE/PAROLEE
APPEAL FORM
 CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. CAL-A-
 2. CSP-LAC-X

1. 04-545
 2. 09-02384

6

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

| | | | |
|----------------------|--------------------------|-----------------------------|-----------------------------------|
| NAME ACUNA | NUMBER C-43165 | ASSIGNMENT Ad Seg | UNIT/ROOM NUMBER A5-237 |
|----------------------|--------------------------|-----------------------------|-----------------------------------|

A. Describe Problem: ON 3/5/04, I was placed in Ad Seg based on an allegation that I was a validated "member" of a prison gang. (see attached CDC-114-D) I received as that date a copy of a CDC-128-B2 (see attached) asserting that I had been validated per confidential chronos dated 12/12/03, 9/23/03, and 9/21/00 submitted as part of a validation package by CSP/LAC gang investigator Lt. Garcilazo. I am asserting by this appeal that my due process rights were violated in a number of ways by the validation.

If you need more space, attach one additional sheet. (continued on attached page)

B. Action Requested: Rescind validation as a gang member and return to general population.

Inmate/Parolee Signature: Cecilio Acuna Date Submitted: 3/11/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____ Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

04-545

04 242 00003

RECORD CAL APPEALS

MAR 15 2004

04 545

DC-602 (Continued)

process, and vehemently deny that I am a member of a prison gang. First of all, I have never been provided with CDC-1030 disclosure forms indicating that confidential information had been placed in my C-file, and submit that each of the listed chronos does not conform to Title 15, Code of Regulations, § 3322(b)(3)(A)-(B). Moreover, concerning the chronos dated 12/03 and 9/03, during an interview with Lt. Garcilazo at CSP/LAC, he stated that "some" type of correspondence had been intercepted by "some" unnamed individual or individuals alleging my involvement in gang activities. Now, the confidential chrono dated 9/21/00, I know for a fact does not claim my type of gang activity, but as disclosed to me by Capt. Medina, CSP/LAC, it documents that a mentally unstable black inmate took himself off the yard because he said he had verbally disrespected me in the law library where I worked as a clerk and felt threatened by other black prisoners because of this. I hereby declare that at no time did I threaten this inmate or "pressure" black prisoners to harm him in any way. A verbal exchange did occur in the presence of numerous black prisoners, but I simply walked away from the situation and gave it no further thought. Furthermore, a review of my C-file shows that all during the almost four years that I was released from PBSP-Indeterminate SHU, except for one CDC-115 received for possession of prison, I have been a model of good inmate, have performed above average at each of my assigned jobs and earned certificates, laudatory job performance reports, completed an Anger Management/Substance Abuse self-help program, and interacted positively with prisoners, job supervisors, housing and study staff. It is a grave injustice to now label me a gang member after such positive programming and by this action.

00004

ADMINISTRATIVE SEGREGATION UNIT PLACEMENT NOTICE
CDC 114-B (Rev 10/98)

DEPARTMENT OF CORRECTIONS

04 545

DISTRIBUTION:
WHITE - CENTRAL FILE
BLUE - INMATE (2ND COPY)
GREEN - ASU

CANARY - WARDEN
PINK - HEALTH CARE MGR
GOLDENROD - INMATE (1ST COPY)

INMATE'S NAME

ACUNA, Arcadio

CDC NUMBER

C-43165

REASON(S) FOR PLACEMENT (PART A)

- ☒ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS
☐ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☒ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT

On Friday, March 05, 2004, the Institutional Gang Investigator at Calipatria State Prison received a facsimile copy of a CDC 128B-2, Gang Validation Chrono, from the Special Services Unit (SSU), identifying you, Inmate Arcadio Acuna, C-43165, B5-209L, as a validated member of the Mexican Mafia prison gang. Due to your current gang status as an active member of the Mexican Mafia, your continued presence on a general population facility (B Facility) has been deemed a threat to the safety and security of the institution. You are being re-housed in Administrative Segregation pending review by the Institutional Classification Committee for program and housing needs. Due to your Ad-Seg placement, your custody level, privilege group, credit earning and visiting status are subject to change. Inmate ACUNA is not a participant in the Mental Health Services Delivery System (MHSD) and Disability Placement Program (DPP).

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☐ IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE: / /

| | | | |
|---|---|--|---------------------------------|
| DATE OF ASU PLACEMENT 03-05-04 | SEGREGATION AUTHORITY'S PRINTED NAME R. ANTI | SIGNATURE <i>[Signature]</i> | TITLE LIEUTENANT |
| DATE NOTICE SERVED 3.5.04 | TIME SERVED 15.5 | PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE J. COLIERNEZ | SIGNATURE <i>[Signature]</i> |
| <input type="checkbox"/> INMATE REFUSED TO SIGN | | INMATE SIGNATURE <i>[Signature]</i> | CDC NUMBER C-43165 |

ADMINISTRATIVE REVIEW (PART B)

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA)

INVESTIGATIVE EMPLOYEE (IE)

| | | | |
|---|--|--|-------|
| STAFF ASSISTANT NAME | TITLE | INVESTIGATIVE EMPLOYEE'S NAME | TITLE |
| IS THIS INMATE: | | EVIDENCE COLLECTION BY IE UNNECESSARY | |
| LITERATE? | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | |
| FLUENT IN ENGLISH? | <input type="checkbox"/> YES <input type="checkbox"/> NO | DECLINED ANY INVESTIGATIVE EMPLOYEE | |
| ABLE TO COMPREHEND ISSUES? | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | |
| FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS? | <input type="checkbox"/> YES <input type="checkbox"/> NO | ASU PLACEMENT IS FOR DISCIPLINARY REASONS | |
| DECLINING FIRST STAFF ASSISTANT ASSIGNED? | <input type="checkbox"/> YES <input type="checkbox"/> NO | DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED | |
| <input type="checkbox"/> NOT ASSIGNED | | <input type="checkbox"/> NOT ASSIGNED | |

INMATE WAIVERS

- ☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☒ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME
☐ NO WITNESSES REQUESTED BY INMATE

WITNESSES REQUESTED FOR HEARING

| | | | |
|---------------|------------------|---------------|------------------|
| WITNESS' NAME | TITLE/CDC NUMBER | WITNESS' NAME | TITLE/CDC NUMBER |
| WITNESS' NAME | TITLE/CDC NUMBER | WITNESS' NAME | TITLE/CDC NUMBER |

DECISION: ☐ RELEASE TO UNIT/FACILITY ☐ RETAIN PENDING ICC REVIEW ☐ DOUBLE CELL ☐ SINGLE CELL PENDING ICC

REASON FOR DECISION:

| | | | | |
|--|--|----------------|----------------|-------------------------------------|
| ADMINISTRATIVE REVIEWER'S PRINTED NAME | TITLE | DATE OF REVIEW | TIME | ADMINISTRATIVE REVIEWER'S SIGNATURE |
| CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary) | CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary) | | DATE OF REVIEW | |

See chronological Classification Review document (CDC 128 - G) for specific hearing information

00005

STATE OF CALIFORNIA
CORRECTIONS
CDC 128-B-2 (5/95)

REC'D CAL APPEALS

MAR 15 2004

04 545
DEPARTMENT OF

INMATE'S NAME: Acuna, Arcadio

CDC NUMBER: C43165

On February 4, 2000, a gang validation package regarding subject was received from Institution Gang Investigator Crandall at PBSF.

SUBSEQUENT INFORMATION WAS RECEIVED BY SSU ON January 12, 2004, FROM GANG INVESTIGATOR Lt. Garcilazo AT CSP-LOS. (UPDATED ITEMS LISTED IN ITALICS).

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (3)

The following items meet the validation requirements:
00.

Conf Memo dated 12-12-03, Conf Memo dated 9-23-03 and Conf 128B dated 9-21-00.

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (3)

The following items do not meet the validation requirements and were/shall not be used as a basis for validation:

TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (0)

ACTION OF REVIEWER

Pursuant to the validation requirements established in 15 CCR Section 3378, Arcadio Acuna is:

☒ VALIDATED ☐ REJECTED

as a member of the Mexican Mafia prison gang.


Wm Luper
Special Agent SSU

DATE: 1-28-04

GANG VALIDATION/REJECTION REVIEW
GENERAL CHRONO
LEIU/SSU

DISTRIBUTION:

Original - Central File
Copy - Classification & Parole Representative/Parole Administrator I
Copy - Institutional Gang Investigator/Region Gang Coordinator
Copy - Law Enforcement Liaison Unit
Copy - Inmate/Parolee

REC'D CAL PEALS

ATTACHMENT

INMATE/PAROLEE
APPEAL FORM

CDC 802 (12/87)

Location: Institution/Parole Region

Log No.

TO: Category

APR 26 2004

1. CAL-A

1. 04 724

04-545

2.

2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

| NAME | NUMBER | ASSIGNMENT | UNIT/ROOM NUMBER |
|-------|---------|------------|------------------|
| ACUNA | C-43165 | Ad Seg | A5-237 |

A. Describe Problem: ON 4/20/04, I received a CDC-1030 Confidential Information Disclosure Form stating that while at CCI confidential information was documented on a CDC-128 B dated 9/21/00 alleging that I continued to communicate with a validated gang member and that the reliability of the source providing this information was established under criteria (d) "This source incriminated himself in a criminal activity at the time of providing the information." First of all, I vehemently deny that I have communicated in any way, shape or form with any (see attached).

B. Action Requested: Expunge Confidential memorandum dated 9/21/00 from my C-File, nullify validation process, and return me to the general population of a Level III prison.

Inmate/Parolee Signature:

Arcadio Acuna

Date Submitted:

4/22/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number:

Board of Control form BC-1E, Inmate Claim

04 724

CD CAL APPEALS

APR 27 2004

TO:

04 724

ATTACHMENT

TO: 04 545

CDC-602 (cont'd)

information was not disclosed to me at the time it was provided so that I could challenge its veracity, (2) that it was relied on in the validation process without allowing me an opportunity to dispute it, (3) that its reliability was not established in conformance to CCR, Title 15, sec. 3321(d)(1)-(3), and (4) that the source providing the false information did so simply in order to gain for himself preferential treatment in the way of classifications, custody, or placement considerations. Finally, I vehemently deny that I have been involved in any type of criminal and/or prison gang activities, and submit that a review of my C-File indicates everything contrary to this accusation, showing that since my release from indeterminate SHU in May 2000, I progressed without committing major rule infractions, that I received commendatory work performance reports from all my supervisors, that I earned numerous Certificates of Vocational Achievement, and that I also successfully completed a self-help course in substance abuse/anger management.

REC'D CAL APPEALS
APR 26 2004~~04-724~~
ATTACHMENT
TO: ~~04-545~~CDC-602 (cont'd)

alleged gang members since my release from indeterminate SHU in May 2000, and dispute the truthfulness of the source providing this false information, submitting that if as the 1030 form indicates this prisoner was himself involved in criminal activities he lied in order to gain for himself preferential treatment in the way of classification, custody or placement considerations. Moreover, I assert that the mandates of CCR, Title 15, sec. 3322(d)(2) were not adhered to in establishing the reliability of the information provided, and on this basis submit that the document should not have been relied on in any decision affecting my classification and custody status. Furthermore, there a serious due process violation concerns have arising from the fact that when this false accusation was made I was not provided a CDC-1030 form so that at that time I could have challenged it and mounted a viable defense to prove the information was false. To wait 3 1/2 years to disclose the information after!! the validation package had been submitted to Sacramento gave me no opportunity to defend myself to the individuals making what clearly is a life-altering decision.

STATE OF CALIFORNIA
CDC 1030 (12/86)REC'D CAL APPEALS
APR 26 2004ATTACHMENT
TO: 04 545

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER:

C43165

INMATE NAME:

ACUNA

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☐ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☒ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following:

that you estimate ACUNA
has failed to communicate with a
validated Mexican Mafia member.
Arturo Estrada CDC # C-63175.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

CDC-128-B dated 09-21-00. Authored
by Correctional Officer B. Shelton located in
the confidential folder.

STAFF SIGNATURE, TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

INMATE/PAROLEE

APPEAL FORM

cdc 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

TO:

ATTACHMENT

TO: 04 545

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

| NAME | NUMBER | ASSIGNMENT | UNIT/ROOM NUMBER |
|-------|---------|------------|------------------|
| ACUNA | C-43165 | Ad Seg | A5-237 |

A. Describe Problem: on 4/20/04 I received a CDC-1030 Confidential Information Disclosure Form which described a confidential memorandum dated 9/23/03 alleging that I had continued to involve myself in prison gang activities by sending money to gang members. This information was supposedly provided by a source whose reliability was established solely on the basis that he had incriminated himself in a criminal activity at the time of providing the information. By this appeal I am asserting that this information is false and that I was denied due process by: (1) the fact that the

If you need more space, attach one additional sheet.

(see attached)

B. Action Requested: Expunge Confidential Memorandum from my C-File & nullify validation process which relied on information contained in the memorandum.

Inmate/Parolee Signature:

Arcadio Acuna

Date Submitted:

4/25/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:



STATE OF CALIFORNIA
CDC, 1030 (12/86)REC'D CAL APPEALS
APR 27 2004TO: 04-724
DEPARTMENT OF CORRECTIONS

ATTACHMENT

TO: 04 545

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C43165 INMATE NAME: ACUNA

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☐ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☒ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following: THAT YOU INMATE ACUNA
CONTINUE TO INVOLVE YOURSELF IN MEXICAN
MAFIA PRISON GANG ACTIVITIES BY SPENDING
MONEY TO MEXICAN MAFIA MEMBERS.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

Confidential Memorandum Dated 9-23-03
Located in your Confidential Folder

STAFF SIGNATURE, TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

APR 28 2004

ATTACHMENT

INMATE/PAROLEE

APPEAL FORM

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

TO:

Category

ATTACHMENT

TO:

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, Classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

| NAME | NUMBER | ASSIGNMENT | UNIT/ROOM NUMBER |
|-------|---------|------------|------------------|
| Acuna | C-43165 | Ad Seg | AS-237 |

A. Describe Problem: On 4/20/04, a Confidential Information Disclosure Form was provided which identified a Confidential Memorandum dated 12/12/03 alleging that I had continued to participate in prison gang activities while at CSP/LAC, Fac. B. The reliability of the information was supposedly established by criteria (e) in that part of the information provided by the source(s) had allegedly already proven to be true. Furthermore, during an interview with IGT Lt. Garcilaga, he stated that a letter from some unnamed individual had been intercepted, and that said letter

If you need more space, attach one additional sheet.

(see attached)

B. Action Requested: Expunge Confidential Memorandum from my C-File, nullify validation process that relied on false information, and return to general population.

Inmate/Parolee Signature:

Cecilia Acuna

Date Submitted:

4/26/04

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

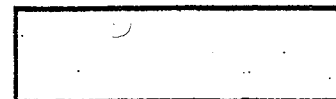
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:



APR 28 2004

STATE OF CALIFORNIA
CDC 1030 (12/86)ATTACHMENT
TO: 04 724
DEPARTMENT OF CORRECTIONSATTACHMENT
TO: 04 545

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C43165 INMATE NAME: Acuña

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- ~~a) ☐ This source has previously provided confidential information which has proven to be true.~~
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☒ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following: that you are with Acuña

C-43165, continued to participate with
Mexican Mafia activities, while at the
California State Prison - Los Angeles County
Facility B.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

Confidential Memorandum dated 12-12-03, authored
by D. Preciado, Institutional Security Director, Assistant
to the Director, Confidential Attach

STAFF SIGNATURE, TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

00014

REC'D CAL APPEALS

APR 28 2004

ATTACHMENT

TO: ~~04 724~~
ATTACHMENT

TO: 04 545

CDC-602 (cont'd)

indicated I was involved in criminal gang activities, I vehemently deny this allegation, and assert that the information contained in the confidential memorandum dated 12/12/03 is false, and is completely contradicted by the other documentation in my C-File showing that since my release from indeterminate SHU in May 2000, I have conformed to behavioral expectations, have performed assigned duties with diligence earning high marks of approval from supervisors, and do not doubt that if interviewed these supervisors would attest to the fact they saw no indication I was involved in gang activities. During the almost four years that I remained in the general population of CCI, Fac. A, and CSP/LAL, Fac's B & D, my conduct was exemplary and in fact I successfully completed a self-help anger management/substance abuse course under the direction of DR. E. Eskandari, Ph.D., and he was so impressed by my conduct and maturing that he requested I become a mentor for his self-help group. All of the above thus clearly shows that I was not and am not involved in any type of prison gang activity.

State of California

Department of Corrections

Memorandum

Date : July 1, 2004

To : Stuart Ryan
Warden (A)
Calipatria State Prison

Subject: INMATE ACUNA C-43165 APPEAL

Inmate Acuna, C-43165 A5-237, is appealing his gang validation package submitted by CSP-Los Angeles CO. (LAC). Acuna was transferred to Calipatria State Prison (CAL) from LAC on March 1, 2004. CAL was advised by LAC that they had submitted the validation package on Acuna. On March 5, 2004 the validation on Acuna was received at CAL. Acuna was housed in Administrative Segregation pending transfer.

Correctional Sergeant Roe served three CDC 1030 prepared by Institutional Gang Investigator (IGI) at LAC. LAC has all the documents that they submitted for the validation on Acuna.

In the past when CAL has submitted validation packages and there have been appeals on the validation package, the appeal has been sent to CAL for the IGI to answer. This is what happened with Inmate Staska when he was transferred to Centinela State Prison (CEN). Sergeant Roe went to CEN, interviewed and answered Inmate Staska's appeals. This has also transpired when another inmate was transferred to CA Correctional Institution, Tehachapi (CCI).

Recommend that these three appeals be forwarded to IGI at LAC for them to answer. IGI at CAL will assist them with what ever they need to answer the appeals.



R. Anti

Correctional Lieutenant
Chief Investigator
Calipatria State Prison

*Recommend this appeal also be sent
to LAC as I did with the other one -
Anti*

State of California

Department of Corrections

TO:

Memorandum

Date : July 1, 2004

To : Stuart Ryan
Warden (A)
Calipatria State Prison

Subject: INMATE ACUNA C-43165 APPEAL

*Pls forward appeals to
LAC - IGI*

[Signature]
7/6/04

Inmate Acuna, C-43165 A5-237, is appealing his gang validation package submitted by CSP-Los Angeles CO. (LAC). Acuna was transferred to Calipatria State Prison (CAL) from LAC on March 1, 2004. CAL was advised by LAC that they had submitted the validation package on Acuna. On March 5, 2004 the validation on Acuna was received at CAL. Acuna was housed in Administrative Segregation pending transfer.

Correctional Sergeant Roe served three CDC 1030 prepared by Institutional Gang Investigator (IGI) at LAC. LAC has all the documents that they submitted for the validation on Acuna.

In the past when CAL has submitted validation packages and there have been appeals on the validation package, the appeal has been sent to CAL for the IGI to answer. This is what happened with Inmate Staska when he was transferred to Centinela State Prison (CEN). Sergeant Roe went to CEN, interviewed and answered Inmate Staska's appeals. This has also transpired when another inmate was transferred to CA Correctional Institution, Tehachapi (CCI).

Recommend that these three appeals be forwarded to IGI at LAC for them to answer. IGI at CAL will assist them with what ever they need to answer the appeals.

[Signature]
R. Anti

Correctional Lieutenant
Chief Investigator
Calipatria State Prison

EXHIBIT "9"

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C43165 INMATE NAME: ACUNA

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☐ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☐ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☒ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following:

that you reported Acuna
C-43165, continued to participate with
Mexican Mafia activities while at the
California State Prison - Los Angeles County
Facility "B".

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

Confidential Memorandum dated 12-12-03, authored
by D. Preciado, Institutional Living Environment Assistant
located in your confidential file.

04/20/04

STAFF SIGNATURE, TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C43165 INMATE NAME: ACUNA

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☐ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☒ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following: That you INMATE ACUNA
CONTINUE TO INVOLVE YOURSELF IN MEXICAN
MAFIA PRISON GANG ACTIVITIES by sending
MONEY TO MEXICAN MAFIA MEMBERS.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

Confidential Memorandum DATED 9-23-03
LOCATED IN your Confidential Folder

STAFF SIGNATURE, TITLE

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: C43165 INMATE NAME: ACUNA

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated _____ submitted by _____

STAFF NAME, TITLE

b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated _____

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) ☐ This source has previously provided confidential information which has proven to be true.
- b) ☐ This source participated in and successfully completed a Polygraph examination.
- c) ☐ More than one source independently provided the same information.
- d) ☒ This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) ☐ Part of the information provided by the source(s) has already proven to be true.
- f) ☐ Other (EXPLAIN) _____

3) Disclosure of information received.

The information received indicated the following:

that my source Acuna
continued to communicate with a
validated Mexican Mafia member
Arturo Estrada CDC # C63175.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

CDC-128-B Dated 09-21-00. Authored
by Correctional Officer B. Shelton located in
my confidential folder.

STAFF SIGNATURE, TITLE

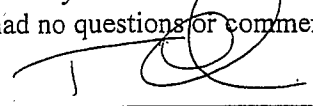
DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

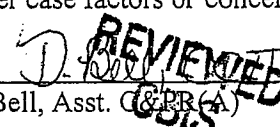
EXHIBIT "10"

ACTION: EXCEPTIONAL REVIEW: RETAIN AD SEG PENDING TX. REFER TO CSR RX TX PBSP-SHU FOR INDETERMINATE SHU. REAFFIRM MAX CUSTODY AND WG/PG D1/D EFFECTIVE 03/05/2004. RETAIN YARD GROUP NO. 7, CONTROLLED COMPATIBLE (WHITES/SO. HISPANICS/OTHERS) AND NON-CONTACT VISITING STATUS EFFECTIVE 03/05/2004. NO MHSDS, MDO, DPP OR DDP CONCERNS NOTED. DOUBLE CELL HOUSING APPROVED. RESCHEDULE ICC 07/22/2004.

Inmate Acuna appeared before ICC this date for an Exceptional Review. He was initially placed in Ad/Seg on 03/05/2004 as a result of being validated as a Mexican Mafia Prison Gang member per CDC 128-B2 dated 01/20/2004. Committee notes Inmate Acuna was seen by ICC on 03/11/2004 and was referred to the CSR recommending Indeterminate SHU placement to PBSP-SHU via CCI-SHU. On 04/06/2004, the case was reviewed and was deferred by the CSR stating the CDC 128-B2 dated 01/20/2004 was not available for review. In addition, IGI must update the CDC 812-A to reflect current gang status. It is noted that all deferral issues of 04/06/2004 have been addressed. The CDC 128-B2 dated 01/20/2004 has been placed in the General Chrono Section of the Central File. The CDC 812-A has been updated and placed in the Classification Section of the Central File. All other documents that had validated Inmate Acuna are labeled and are in the Confidential Section of the Central File. Committee elects to retain inmate in Ad Seg pending transfer and refers the case to the CSR recommending transfer to PBSP-SHU for Indeterminate SHU placement. Committee reaffirms MAX custody and WG/PG D1/D effective 03/05/2004. Inmate is retained in Yard Group No. 7, Controlled Compatible (Whites/SO. Hispanics/Others) and non-contact visiting status effective 03/05/2004. A review of the central file does not indicate a pervasive pattern of in-cell assaults or predatory behavior, therefore, inmate is approved for double cell housing. Inmate does not meet the criteria for inclusion in the MHSDS, MDO, or DPP and Mental Health Staff present during committee is in agreement with this status. Inmate's GPL is 12.5. Inmate was received in CDC on 03/11/1987 and was endorsed to CAL on 02/19/2004 and will be eligible for custody review on 08/05/2005. Committee notes that pertinent case factors remain the same as noted on CDC 128G Chrono dated 03/11/2004. Inmate's next BPT Hearing is scheduled for 07/2011 and his next Annual Review is scheduled for 10/2004. Inmate was advised he would be seen by ICC on 07/22/2004. Inmate Acuna was informed of committee's actions and was advised of his right to appeal. Inmate had no questions or comments to address to committee. There are no other case factors or concerns noted. (acf)


T. Ochoa, CDW(A)

5/10/04
CHAIRPERSON


D. Bell, Asst. C&PR(A)

REVIEWED
RECORDED
RECORDER

Committee Members: M. Bourland, AW; S. Leapheart, FC; J. Jackson, CCII; D. Middleton, Ph.D.

cc: Counselor, Inmate

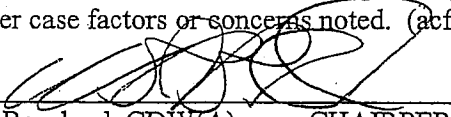
Date: 04/22/2004

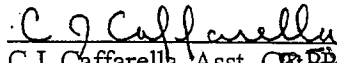
CLASSIFICATION: ICC AD/SEG

INST: CAL-IV

ACTION: 90 DAY REVIEW: RETAIN AD SEG PENDING TX TO PBSP-SHU. REAFFIRM MAX CUSTODY AND WG/PG D1/D EFFECTIVE 03/05/2004. RETAIN YARD GROUP NO. 7, CONTROLLED COMPATIBLE (WHITES, SO. HISPANICS, OTHERS). NO MHSDS, MDO, DDP OR DPP CONCERNS NOTED. DOUBLE CELL HOUSING APPROVED. RESCHEDULE ICC 10/07/2004.

Inmate Acuna appeared before ICC this date for a 90 Day Review. He was initially placed in Ad/Seg on 03/05/2004 as a result of being validated as a Mexican Mafia Prison Gang member, refer to CDC 128B-2 dated 01/20/2004. On 03/11/2004, ICC referred the case to the CSR recommending Indeterminate SHU placement to PBSP-SHU via CCI-SHU. ON 04/06/2004, the CSR deferred the case noting the CDC 128B-2 was not in the Central File and the 812-A needed to be updated. On 04/22/2004, ICC noted the CSR deferral issues had been corrected and referred the case for transfer to PBSP-SHU for Indeterminate SHU placement. On 06/01/2004, the CSR endorsed inmate to PBSP-SHU with transfer approval expiring 09/29/2004. Committee elects to retain inmate in Ad Seg pending transfer to PBSP-SHU and reaffirms MAX custody and WG/PG D1/D effective 03/05/2004. Inmate is retained on Yard Group No. 7, Controlled Compatible (Whites, So. Hispanics, Others). A review of the central file does not indicate a pervasive pattern of in-cell assaults or predatory behavior, therefore, inmate is approved for double cell housing. Inmate does not meet the criteria for inclusion in the MHSDS, MDO, or DPP per CDC 128G Chrono dated 04/22/2004 and Mental Health Staff present during committee is in agreement with this status. Madrid Chrono dated 04/22/2004 is in the Central File. Inmate's GPL is 12.5. Inmate was received in CDC on 03/11/1987 and was endorsed to PBSP-SHU on 06/01/2004 with a total term of Life (X3) plus 8 Months. Inmate's BPT Initial Parole Consideration Hearing is scheduled for 07/2011 and his next Annual Review is scheduled for 10/2004. Committee notes the 180°/270° design housing placement criteria has been reviewed. Inmate qualifies for 180° design housing placement due to inmate being a validated prison gang member. Inmate was advised he would be seen by ICC on 10/07/2004. Inmate Acuna was informed of committee's actions and was advised of his right to appeal. Inmate had no questions or comments to address to committee. There are no other case factors or concerns noted. (acf)


M. Bourland, CDW(A) CHAIRPERSON


C.J. Caffarella, Asst. CHAIRPERSON
REVIEWED
OBIS

Committee Members: G. Janda, AW; J. Criman, CCI; D. Middleton, Ph.D.

cc: Counselor, Inmate

Date: 07/15/2004

CLASSIFICATION: ICC AD/SEG

INST: CAL-IV

ACTION: EXCEPTIONAL/ANNUAL REVIEW: REVIEW PERIOD 10/01/2003 THROUGH 09/30/2004 / REDUCE PLACEMENT SCORE TO 55 / RETAIN AD SEG PENDING TRANSFER TO PBSP-SHU / RETAIN MAX CUSTODY AND WG/PG D1/D EFFECTIVE 03/05/2004 / REAFFIRM YARD GROUP #7, CONTROLLED COMPATIBLE (WHITE /SOUTHERN HISPANIC /OTHER) AND REAFFIRM DOUBLE CELL HOUSING / RESCHEDULE ICC ON 12/30/2004 / NO MHSDS, MDO, DDP OR DPP ISSUES NOTED.

Inmate Acuna appeared before ICC this date for an Exceptional/Annual Review. He was initially placed in Ad/Seg on 03/05/2004 as a result of being validated as a Mexican Mafia prison gang member, refer to CDC 128B2 dated 01/20/2004. On 04/22/2004, ICC noted that prior CSR deferral issues had been corrected and referred the case back to CSR for placement at PBSP-SHU for Indeterminate SHU. On 06/01/2004, the CSR endorsed Inmate to PBSP-SHU with transfer approval expiring on 09/29/2004. On 07/15/2004, ICC elected to retain Ad Seg pending transfer to PBSP-SHU, retain MAX custody, WG/PG D1/D effective 03/05/2004 and retain on Yard Group #7. On 09/08/2004, the CSR approved an extension which expires on 01/06/2005. Today's committee elects to retain Ad Seg pending transfer to PBSP-SHU, retain MAX custody and WG/PG D1/D effective 03/05/2004. Reaffirm Yard Group #7, controlled compatible (White /Southern Hispanic /Other). A review of the central file does not indicate a pervasive pattern of in-cell assaults or predatory behavior, therefore, inmate is approved for double cell housing. Inmate does not meet the criteria for inclusion in the MHSDS, MDO, DDP or DPP per CDC 128C Chrono dated 04/22/2004 and Mental Health Staff present during committee is in agreement with this status. This hearing also serves as Inmate's Annual Review for the period of 10/01/2003 through 09/30/2004. Placement score has been reduced from 59 to 55. Inmate's GPL is 12.5. Inmate was received in CDC on 03/11/1987 and was endorsed to PBSP-SHU on 09/08/2004 with a total term of Life (x3) plus 8 months. Inmate's BPT Initial is scheduled for 07/2011. Inmate meets 180 design placement due to being a validated prison gang member. Inmate was advised he would be seen by ICC on 12/30/2004. Inmate Acuna was informed of committee's actions and was advised of his right to appeal. Inmate had no questions or comments to address to committee. There are no other case factors or concerns noted. (1h)

T. Ochoa, CDW(A)

CHAIRPERSON

C.J. Caffarella, Asst. C&PR

RECORDER

Committee Members: G. Janda, AW; M. Tapia, FC (A); J. Jackson, CCI; D. Middleton, Ph.D.

cc: Counselor, Inmate

Date: 10/07/2004

CLASSIFICATION: ICC AD/SEG

INST: CAL-IV

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **In re Arcadio Acuna**

No.: **HCPB05-5242**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age and older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

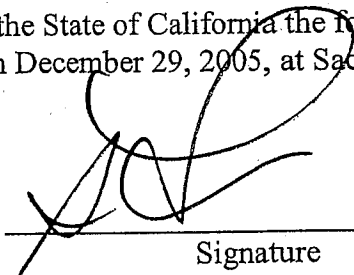
On December 29, 2005, I served the attached **INFORMAL RESPONSE** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

In Pro Per Petitioner:

Arcadio Acuna, C-43165
Pelican Bay State Prison
P.O. Box 7500
Crescent City, CA 95531-7500

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 29, 2005, at Sacramento, California.

S Freeman
Declarant



Signature